

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Acq. Appeal No.240 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of main case.

19.04.2019

Mr. Muhammad Arshad Tariq, advocate for the appellant.
Ms. Seema Zaidi, DPG for the State.
Respondent No.1 Muhammad Amir present in person.

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NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the judgment dated **12.03.2018** passed by the IVth Judicail Magistrate East, Karachi in Criminal **Case No.1332/2015** whereby the trial Court has acquitted Respondent No.1 by extending him benefit of doubt.

2. Brief facts of the prosecution case are that complainant Muhammad Farooq s/o. Abdul Lateef R/o. H.No.87/1 Sector 51/B Korangi No.6 Karachi lodged FIR at P.S Zaman Town on 17.4.2015 at 1530 hours, stating that he does welding work. His nephew Muhammad Aamir s/o Muhammad Haneef also resides in the same house, who was boring in the gallery of his house. Complainant restrained him, on that he hit pipe to complainant and caused injuries on his left arm and foot. Complainant raised cries, which attracted family members, on seeing them, accused used abusive language and went away.

3. I have heard the learned counsel for the appellant and learned DPG and perused the record.

4. The perusal of the impugned order shows that the learned trial Court has rightly observed that:-

.....“It is deposed by MLO Dr. Javed that complainant was suffering two injuries viz. on left arm and left foot, which are defined in M.L.R Exh.03/B but complainant/injured Muhammad Farooq himself deposed that accused hit him on his left arm near writ.....Complainant/injured deposed that he remained admitted in hospital for 15 days, but on this material point, MLO told that complainant/injured was discharged on the very date of coming after about an hour, which is so affirmed by witness Amna Shahzadi. Complainant/injured Muhammad Farooq and witness Muhammad Faizan deposed that accused hit iron pipe to complainant/injured, but witness Amna Shahzaid told it was iron rod and there is difference between both. Witness Amna Shahzadi deposed that after the incident, his son took complainant to police station and from where he was taken to hospital and on this point, witness Muhammad Faizan deposed that a passerby on motorcycle took his father to hospital, where he was asked to go to police station and thereafter, his father went to police station and in cross-examination, he again said that he also accompanied with his father to hospital”

.....“The concept of benefit of doubt to an accused person is deep-rooted in our country. For giving him benefit of doubt, it is not necessary that there should be many circumstances creating doubts. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused will be entitled to the benefit not as matter of grace and concession but as a matter of right. The lacunas and flaws apparent in the evidence has made prosecution’s case doubtful. Medical evidence is in conflict with oral account. The parties are inimical to each other”

5. In view of the above, no case is made for interference in the impugned judgment by this Court, therefore, this CrI. Acq. Appeal is dismissed.

JUDGE